

TO: Files

CC: San Diego Audit Committee

FROM: Willkie Farr & Gallagher LLP

RE: Interview of Donna Cottingham on April 18, 2006

DATED: May 16, 2006

On Tuesday, April 18, 2006, Michael Schachter of Willkie Farr & Gallagher LLP ("Willkie") interviewed Donna Cottingham on behalf of the Audit Committee. Ms. Cottingham was represented by counsel, Michael Neil of Neil, Dymott, Frank, Harrison & McFall. Also in attendance were Donielle Evans of KPMG and Brian Faerstein of Willkie. The interview took place at the offices of Neil, Dymott, Frank, Harrison & McFall in downtown San Diego and lasted approximately two hours.

The following memorandum reflects my thoughts, impressions, and opinions regarding our meeting with Donna Cottingham, and constitutes protected attorney work product. It is not, nor is it intended to be, a substantially verbatim record of the interview.

Warnings

Mr. Schachter began the interview by describing the circumstances and purpose of the City of San Diego's (the "City") creation of the Audit Committee. Mr. Schachter explained that the Audit Committee would be speaking with a wide array of City officials and employees to get a broader understanding of the relevant issues. Mr. Schachter further explained to Ms. Cottingham that while Willkie does not represent her, we intend to keep the substance of the interview confidential during the course of the investigation. He clarified that we would likely disclose the contents of the interview in the Audit Committee's ultimate report, and would provide a summary memorandum of the interview to the SEC, the Department of Justice and KPMG upon request. Mr. Schachter advised Ms. Cottingham that she should feel free to ask questions and consult with Mr. Neil as needed.

At the outset of the interview, Mr. Neil stated that there is a general paranoia among City employees about the past and current investigations into the City's financial troubles. He explained that he was serving as counsel to Ms. Cottingham to assist her with the process of the interview and that we should not draw any conclusions from his representation as to her complicity in any of the alleged wrongdoing. Mr. Schachter noted that he understood her concern and that we did not draw any conclusions from Mr. Neil's presence. Mr. Neil also remarked that Ms. Cottingham would not have the information we were looking for.

Background

Ms. Cottingham received a Bachelor of Arts Degree in Management in 1999 and a Master's Degree in Management in 2004. In 1999, she attended the Institute of Economics and Political Studies at Cambridge University. In 2001, she received a professional certificate in fundraising from the University of California, San Diego. Asked if she had been able to use her Master's Degree in any significant capacity, Ms. Cottingham responded that she had not.

Ms. Cottingham started working for the City in 1974. Her first job was taking minutes of City Council meetings. She quickly worked her way up the administrative ladder, holding positions as a secretary to the Superintendent in the City Buildings Division, secretary to the Assistant Director in the City Personnel Department, and assistant secretary to the Assistant City Manager. In August 1976, Ms. Cottingham became the Executive Assistant to the City Manager. She held that position until September 2001, at which point she was promoted to her current position, Citizens Assistance Manager.

As the Citizens Assistance Manager, Ms. Cottingham handles constituent complaints received by the Mayor's Office and City Council. Most often, she receives these complaints electronically, forwarded to her office by staff of the Mayor or City Council members. To a lesser extent, her office fields complaints over the telephone. When she receives complaints, Ms. Cottingham evaluates the substance of the complaints, looking for potential City Charter or Municipal Code violations. If a complaint has merit, she makes further inquiries of the issuer of the complaint, and Ms. Cottingham forwards the matter to the appropriate staff member to consider and seek a resolution to the problem. Ms. Cottingham has four staff members working below her, two of which who are responsible for the route slips and complaints and two of which who work primarily out of City Hall answering phone lines and greeting the public. When she first became Citizens Assistance Manager, Ms. Cottingham reported to Assistant City Manager Lamont Ewell and, later, to Senior Deputy City Manager George Loveland.

Experience as Executive Assistant to City Manager Michael Uberuaga

Mr. Schachter asked Ms. Cottingham about her general duties as the Executive Assistant to the City Manager. Ms. Cottingham explained that her duties changed based on who was City Manager at the time. Mr. Schachter asked her to focus on the period from the mid-1990's through September 2001, when she took the position of Citizens Assistance Manager. Ms. Cottingham recalled that City Manager Michael Uberuaga had started on November 1, 1997, taking over for Interim City Manager Penny Culbreth-Graft. Before Ms. Culbreth-Graft, Jack McGrory had served as City Manager, though Ms. Cottingham was not sure for how long.

Mr. Schachter inquired about Ms. Cottingham's duties under Uberuaga. Ms. Cottingham explained that she scheduled meetings, assisted in the preparation of speeches, prepared PowerPoint presentations, supervised the fellowship program, and managed the day-to-day operations of the City Manager's Office. Ms. Cottingham noted that she sat directly outside Uberuaga's office. One assistant reported to her, but she could not recall the name of that person.

Mr. Schachter showed Ms. Cottingham Exhibit 1, an Organizational Structure Chart of the City of San Diego government while Uberuaga was City Manager. Mr. Schachter asked Ms. Cottingham whether she served as the head of the Human Relations Commission under Uberuaga, as listed on the chart. Ms. Cottingham stated that she knows what the Commission is, but has never been a part of it.

Mr. Schachter inquired about Uberuaga's management style. Ms. Cottingham characterized Uberuaga as analytical and precise. When asked whether he was hands-on or delegatory in approach, she stated that he was more hands-on. She noted that he often held unscheduled meetings and required staff members to report to him directly regarding most issues. Regarding his precision, she explained that he would often lay out pages of a report on a table side-by-side, covering the whole table, so he could take a comprehensive overview of all issues raised therein. As for Ms. Cottingham's impression of Uberuaga's personality, she remarked that he was quiet, competitive, proud and focused. He was very "task-oriented" and closed people off when he had a particular issue in mind or task at hand.

Mr. Schachter asked whether she believed Uberuaga was adept at financial issues. Ms. Cottingham responded that Uberuaga spent a lot of time on budget issues, as this was one of his primary responsibilities, and most often reviewed financial reports and budget reports himself. She further explained that Uberuaga would often use a calculator to double-check a report prepared by a staff member and challenge the staff member if he found a discrepancy. Mr. Schachter asked about the hierarchy in the City Manager's Office, and Ms. Cottingham explained that it had changed over time. She noted that sometimes the Deputy City Managers reported to the Assistant City Manager, and other times they reported directly to the City Manager.

Mr. Schachter asked Ms. Cottingham about Uberuaga's interactions with the City Auditor & Comptroller's Office (the "A&C"), specifically inquiring whether she believed Uberuaga trusted officials and staff in the A&C. She recalled that Uberuaga often had closed-door meetings with them, but she did not remember him making any comments as to his faith in their work product. Mr. Schachter inquired about Uberuaga's relationships with certain officials within the City Manager's Office. Ms. Cottingham recalled that Uberuaga trusted Assistant City Manager Lamont Ewell, citing as an example that if Uberuaga wanted an opinion on a certain matter, he would often first ask Ewell. Ms. Cottingham noted that Uberuaga had a similar relationship with Senior Deputy City Manager George Loveland. However, Ms. Cottingham believed that Uberuaga did not have the same level of trust in Deputy City Manager Pat Frazier, as at some point Frazier began reporting mostly to Ewell and not Uberuaga. However, Ms. Cottingham did note that Uberuaga had promoted Frazier to Deputy City Manager. Ms. Cottingham did not recall Uberuaga's relationship with Deputy City Manager Bruce Herring.

Mr. Schachter asked Ms. Cottingham about her impressions of Uberuaga's interactions with the Mayor's Office and City Council. Ms. Cottingham explained that Uberuaga was often frustrated with the Mayor's Office under Mayor Susan Golding. Uberuaga prepared very thoroughly for his meetings with the Mayor, and very often Mayor Golding would cancel the meetings with little notice. Overall, Ms. Cottingham believed that Uberuaga had trouble communicating effectively with Mayor Golding. Ms. Cottingham did not have anything specific to say regarding Uberuaga's interactions with Mayor Dick Murphy, who took office in December 2000. She could not recall how much time Uberuaga spent with Mayor Murphy.

MP1

Mr. Schachter asked Ms. Cottingham if she was familiar with MP1. She initially responded that she did not know what it related to, but then agreed that she understood it concerned pension issues after Mr. Schachter made that suggestion. She appeared a bit anxious about this line of inquiry, and clarified her general understanding that MP1 went to City Council before 2001 and “it related to the under-funding of the pension system.” Mr. Schachter asked her if she had any recollection of problems with the funding of the pension system between 1996 and 1998, and Ms. Cottingham responded that she did not. Mr. Schachter asked generally about Ms. Cottingham’s knowledge of the City’s financial position in 1996, particularly during the period when the City hosted the Republican National Convention. Ms. Cottingham did remember financial troubles at that time, and remarked that “the City is always in a difficult financial position” and unable to meet its budgetary obligations.

City Manager’s Office Executive Team Meetings

Mr. Schachter asked Ms. Cottingham if she attended meetings with Uberuaga. She responded affirmatively, stating that she attended executive team meetings with him. These meetings were held on a weekly basis and served as a forum for discussion about issues that were coming up during the following week. Ms. Cottingham explained that the executive team consisted of the City Manager, the Assistant City Manager and the Deputy City Managers. Other City officials would also occasionally attend these meetings, depending on the particular issues on the agenda for any given week. In particular, she noted that the Financial Management Director was often invited (i.e., Frazier before she became Deputy City Manager, and then, Ms. Cottingham believed, Ernie Anderson).

Mr. Schachter inquired about the types of discussions that were had at the executive team meetings, in particular whether she recalled any discussion about problems with the pension fund or about plans to change the way the City contributed to the City Employees’ Retirement System (“CERS”). She said she could not recall any such conversations. Mr. Schachter asked whether she recalled any discussions about allowing City employees to purchase service credits toward the calculation of their pension benefits. Mr. Neil asked whether Mr. Schachter meant if she recalls such discussion at the executive team meetings or anywhere else also, to which Mr. Schachter clarified that he meant both. Ms. Cottingham explained that she recalled other employees discussing whether or not to exercise their option to purchase, but she did not recall any discussion about the plan being under-priced.

Mr. Schachter showed Ms. Cottingham Exhibit 2, a September 6, 1996 routing slip from City Manager Jack McGrory with an attached August 10, 1996 letter from Bill Sage to “Jim.” Mr. Schachter asked Ms. Cottingham if she knew the people on the routing slip’s distribution list. She responded that she did, naming most of the people on the list and stating her recollection of each person’s position at the time: Ernie Anderson was in Financial Management; Tina Christiansen was the Development Services Manager; Penny Culbreth-Graft was Assistant City Manager; Pat Frazier was Financial Management Director; Bruce Herring was a Deputy City Manager; Staajabu Heshimu was Executive Director of the Police Review Board; George Loveland was possibly a Deputy City Manager; Robert Osby was the Fire Chief; and Jerry Sanders was the Police Chief. Mr. Schachter asked Ms. Cottingham if she recognized the handwriting on the routing slip, and she stated that she believed it was that of McGrory. Mr.

Schachter asked who “Cathy” was, which was written in handwriting on the document. Ms. Cottingham surmised that it referred to Cathy Lexin, the only Cathy she could think of, and noted that Lexin would have been the Labor Relations Manager at the time. Ms. Cottingham recalled that this could have been a document that was shared with her, but that she did not specifically remember seeing it. Mr. Schachter asked her about the substance of the attached letter, inquiring whether the issue discussed was surplus earnings. Ms. Cottingham affirmed, noting that she has heard the term but does not know what it means (both at the time and currently). She stated that she did not have an understanding of any problems in connection with the use or depletion of surplus earnings, as discussed in the document.

Corbett

Mr. Schachter asked Ms. Cottingham what she recalled of the *Corbett* litigation between 1998 and 2000. Ms. Cottingham stated that she remembered Corbett had been a City employee, but that she did not have any familiarity with the suit at the time, except that it related to the retirement system. She did not know that it related to the inclusion of overtime pay in the calculation of one’s salary for pension purposes, nor did she recall the terms of the settlement. Mr. Schachter asked Ms. Cottingham whether this was the type of issue that would have been discussed at executive team meetings; in particular, he questioned whether the issue was not discussed, or whether she just did not pay attention, or whether she may have simply forgotten. Ms. Cottingham responded that it is likely that this issue would not have been discussed because the issue was “so focused on finances and would be seen as not an efficient use of time” for a number of executive team members.

Blue Ribbon Committee

Mr. Schachter inquired about the Blue Ribbon Committee (the “BRC”) and the Ballpark financing. Ms. Cottingham recalled that Mayor Murphy created the BRC to review the finances of the City when he first came into office. She noted that there have been other such committees created to conduct specific studies. She only had a “vague recollection” of the BRC Report involving pension issues. She could not recall any of the specific findings of the BRC. As for the Ballpark project, she could only recall that Uberuaga had a number of meetings with then Padres President and CEO Larry Lucchino. She could not remember any issues relating to the delay of the BRC issuing its findings in connection with the Ballpark project.

Mr. Schachter asked Ms. Cottingham about her general recollection of issues with the stock market in 2001 and 2002, in particular the market downturn and its effect on the City. Ms. Cottingham recalled that the downturn did have a negative impact on the pension system and had a vague recollection about some discussion of the “ineptness of the investment officer” and whether he should be blamed for the investment losses. Ms. Cottingham could not recall who participated in those conversations or who in City government was aware of this “ineptness.” She could not recall from whom she learned about the effect of the market downturn on the pension system.

Labor Negotiations

Mr. Schachter asked Ms. Cottingham about her knowledge of Meet-and-Confer issues. While she did not have a role in labor negotiations as Executive Assistant to the City

Manager, she recalled that Uberuaga had weekly meetings with his staff about the progress of negotiations. She was familiar with the term “Meet-and-Confer” but did not attend these meetings, particularly during the Spring 2002 negotiations, as she had already taken her current position as Citizens Assistance Manager. Mr. Schachter asked Ms. Cottingham if she had ever heard about the reduction of the City’s contributions to the pension system in connection with labor negotiations. She answered that she had not.

Mr. Schachter inquired whether Ms. Cottingham knows or knew Ron Saathoff. She knew that he was the president of the firefighter’s union and that he “came around to make a deal” during labor negotiations. She could not recall any specific negative things said about Saathoff, except that he was generally perceived by those in the City Manager’s Office as a tough negotiator. She said that she never heard about him getting certain benefits in exchange for helping the City with its contributions to the pension system.

MP2

Ms. Cottingham was then asked about her understanding of MP2. She explained that she understood the proposal as an “increase in the amount of the factor in determining what our pension would be.” She did not recall discussions about it, nor did she recall citizens’ complaints about it in her capacity as Citizens Assistance Manager. Mr. Schachter asked Ms. Cottingham if she recalled receiving complaints about conflicts of interest of City employees sitting on the CERS Board during this time period. Ms. Cottingham did not recall any such complaints, nor did she recall any conversations regarding this issue or the issue of CERS Board members receiving special benefits from the City.

Financial Disclosure

Asked about her knowledge of the City’s outside bond counsel, Ms. Cottingham said she did not know who served this role. Mr. Schachter asked if she had ever heard questions as to the completeness of the City’s financial disclosures. Ms. Cottingham silently contemplated this question for several moments, but then answered that she could not recall any such discussion.

Wastewater Rates

Mr. Schachter asked Ms. Cottingham about her recollection of conversations about sewer rate structure requirements and Cost of Service studies. She did not recall discussion of either, but noted that there may have been route slips through her office relating to cost of service issues and citizens’ concerns about water rates. When asked whether she knows or knew Dennis Kahlie (City Utilities Finance Administrator), Ms. Cottingham affirmed that she did and understood his role but could not recall any specific discussions relating to him.

Mr. Schachter asked Ms. Cottingham generally whether, during her time with the City, she had personally observed or heard about anything that she thought would or could be improper. Ms. Cottingham replied that she had not.

Mr. Schachter ended the interview by reiterating to Ms. Cottingham the importance that she maintain the confidentiality of the substance of the interview, explaining the

necessity of assuring that all potential interviewees are untainted in terms of what they have heard about the Audit Committee's process. Ms. Cottingham responded that she understood.

WF&G

EXHIBIT 1

City of San Diego

Organizational Structure

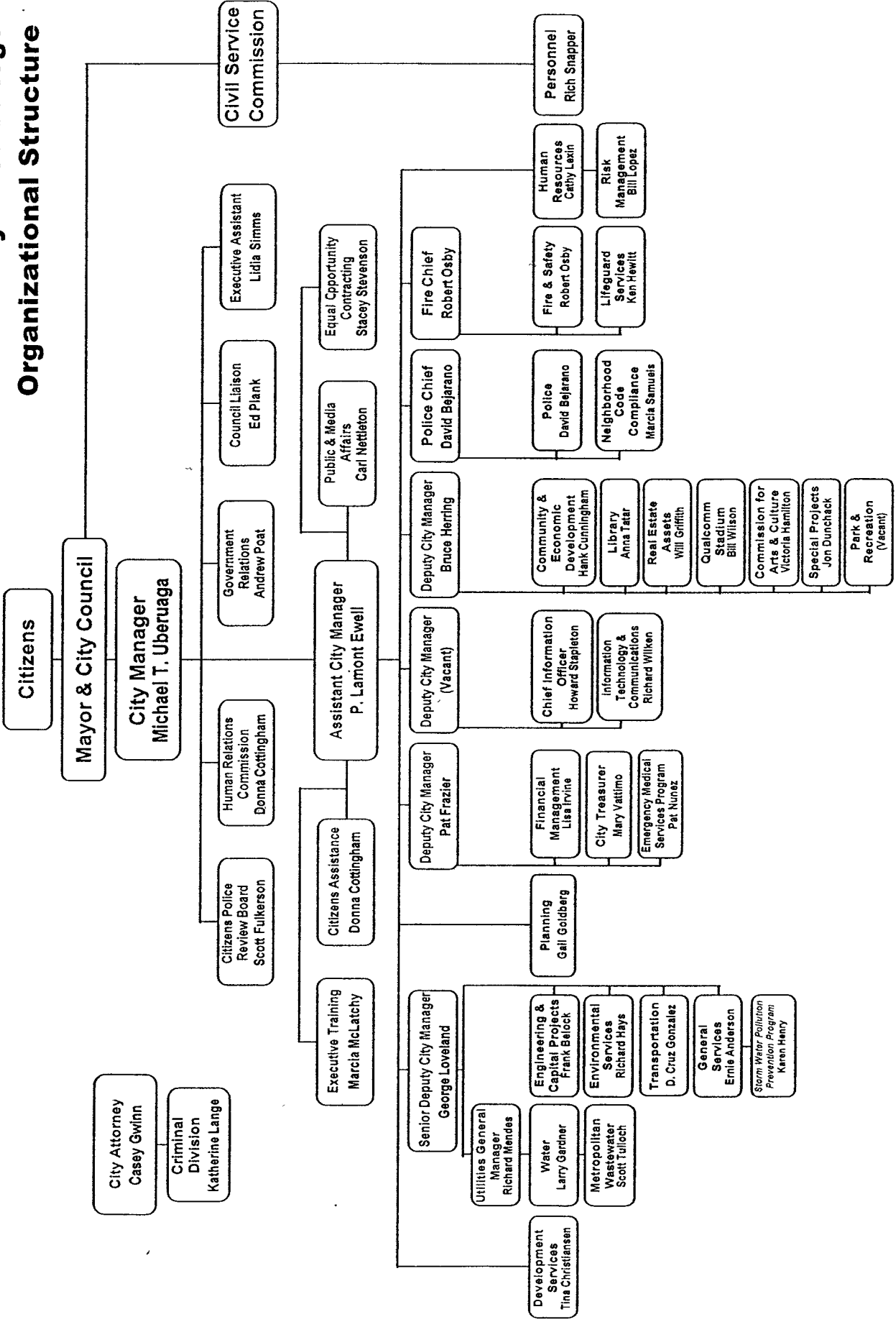


EXHIBIT 2



from

JACK McGRORY
City Manager

MEMO

TO:

- ☐ Ernie Anderson
- ☐ Tina Christiansen
- ☐ Donna Cottingham
- ☐ Penny Culbreth-Graft
- ☐ Pat Frazier
- ☐ Bruce Herring
- ☐ Staajabu Heshimu
- ☐ George Loveland
- ☐ Carl Nettleton
- ☐ Robert Osby
- ☐ Jerry Sanders
- ☐ Business Center Managers

DATE: 9-6-96

DUE:

INSTRUCTION:

- ☐ Please Handle for Me
- ☐ For Your Information
- ☐ Respond Directly/Send Copy to Me
- ☐ Please See Me
- ☐ Review and Return with Comments
- ☐ Please Prepare Response for My Signature

Printed on recycled paper

VE SUM 08129

August 10, 1996

Dear Jim,

As requested, I have reviewed the 6/30/96 financial statements prepared by the City Auditor's office to determine what portion of the reserves credited by surplus earnings, are a result of investing the moneys in the various retirees, employees and City's accounts. The results are as follows and are approximates.

<u>Reserves</u>		<u>%</u>	(Surplus Earnings) <u>Allocation of Reserves</u>
Employees Contr.	\$218,700,000	17.2	\$ 29,410,000
Employers Contr.	411,700,000	32.4	55,400,000
Reserves for Retired Members			
General	232,400,000	18.3	31,290,000
Safety	325,400,000	25.6	43,780,000
Sp. Safety	1,100,000	-0-	-
Leg.	300,000	-0-	-
Unified Port	22,700,000	1.2	2,050,000
Total (Retired)	581,900,000	45.1	
General Reserve	57,900,000	5	8,550,000
Total	1,270,200,000	100+-	171,000,000+-
Reserves Created by Surplus Earnings			
Earnings Stabilization			10,800,000
Proposed Changes			144,300,000
Undistributed Earnings			15,900,000
Total			171,000,000

Since retiring my theory has been that the interest earnings of the system should follow the principal. When the Board establishes the interest assumption rate that amount of the earnings does follow the principal. However, any surplus earnings does not. The Board and the City now seem to think that all surplus earnings are there for anything they wish to do with it, i.e., meet and confer benefits. I strongly believe the Employees should get their share, the City theirs, and the retirees theirs. The retirees share could be broken down even further between General Members and Safety Members and Port District.

The figures shown are approximate and rounded off. Hope they help.

Bill Sage

VE SUM 08128